

## **Working Correspondence with Clark Boardman Callaghan (CBC) and, Subsequently, with West Group (1995 – 1998)**

### **Memo to Guy – 5/8/1995**

Guy:

The zipped files in the ftp directory contain the new court of appeals and district court cases to be secured from LEXIS for the next disk, with codes.

In addition to those documents please get 1 new ruling and one old case.

#### **New Ruling**

Like other new rulings, this one (SSR 95-1p) is in the Federal Register file. 60 FR 20549

Its codes should be:

<GR:"all general"><GR:"e 500"><GR:"e 200"><GR:"d 100"><GR:"d 200">

#### **Old Case**

There is also the important missing earlier case, Renshaw v. Heckler, cited explicitly in the treatise. It predates lexis cites having only the citation: 787 f.2d 50

Its codes should be:

<GR:"all family"><GR:"h 110"><GR:"k 100">

Finally, five rulings on the disk have been rescinded by the agency (and therefore should be removed).

They are:

SSR -- 76-28, 76-41, 88-11c

AR -- 87-1(6), 87-3(9)

Peter

### **Update Memo - 8/9/1995**

Aug. 8 Updates for SS Plus

New Cases Within the Existing Scope of the Disk

I have put two files for your ftp retrieval at ftp.law.cornell.edu

You must login as disk95 and give the password get2stuf

The files (named ctapcbc.aug and distcbc.aug) are to be

found in the /private/ssplus

directory.

New Old Cases

In addition to the list of recent district court cases, LEXIS added two older decisions that should be added with codes. Since they predate LEXIS cites

I can only identify them by their F. Supp. cite. Those cites and the codes for each are:

"881 F. Supp. 547", "<GR:"all disability"><GR:"n 100"><GR:"n 810"><GR:"p 620"><GR:"p 740"><GR:"p 810"><GR:"p 820"><GR:"p 920">"

"613 F. Supp. 1229", "<GR:"all attorney"><GR:"t 100"><GR:"t 200">"

New Rulings

There are two new rulings to be acquired and coded:

Social Security Acquiescence Ruling 95-2(9),

which appears at 60 FR 35987 in the Federal Register file,

to be coded: <GR:"all disability"><GR:"n 100"><GR:"q 300">

Social Security Ruling SSR 95-2c,

which appears at 60 FR 31753 in the Federal Register file,

to be coded:

<GR:"all general"><GR:"e 800"><GR:"e 910"><GR:"e 950"><GR:"d 000">

#### New Regulations

While the identification and inclusion of new regulations is not normally in my sphere, I would note the importance of the new regulations issued the end of June, which appear at 60 FR 34126, and add two new sections -- 404.942 and 416.1442.

Peter W. Martin

#### **Update Memo – 10/20/1995**

Aug. 8 Updates for SS Plus

#### New Cases Within the Existing Scope of the Disk

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and add two new sections -- 404.942 and 416.1442.

Peter W. Martin

**CBC Request that Medicare and Medicaid Be Added – 12/5/1995**

Mr. Peter Martin

Martin%LII.Law.Cornell.Edu

Dear Peter:

Thank you for spending time on the phone with us to discuss our ideas for enhancing Social Security *Plus* by adding a lockout feature on Medicare/Medicaid. As we indicated to you, our most prestigious subscriber, the Social Security Administration, requires this component and we can all succeed by providing it to them.

To meet this requirement, our initial idea was to simply include the Medicare/Medicaid chapters from our successful publication, Advising the Elderly Client (sent under separate cover). In addition to this analytical material, we would of course be adding primary source material which will include the Medicare Act, Medicaid Act, Medicare/Medicaid regulations, cases (500 - 1,000), HCFA Policy Manuals (such as Carrier's Manual, Nursing Home Manual, etc). All of this material would be linked appropriately to just the Medicare/Medicaid segment (not to your work *Martin on Social Security*). This lockout feature would be sold only in conjunction with the existing Social Security *Plus*, at a price to be determined, however CBC (Thomson) would not be obliged to pay royalties to you on this portion. However, you'll have a direct benefit as a

result of this added component. Regarding pricing, we must be very sensitive to competitive pricing issues; the West product already includes Medicare/Medicaid at their new set sales price of \$1,500. To stay under this threshold, CBC will have to consider apportioning less value to the existing product to keep the price competitive for the combined package.

After our discussion, you wanted to consider the analytical material to be added and possibly "Martinize it"; that is, you would include the Medicare/Medicaid topics in *Martin* with the appropriate links to the analytical material and primary source material via popup windows. We welcome this option very much. Please be in touch after you've had time to consider this opportunity.

Sincerely,

Sue Rinebold

Mick Cole

Product Manager

Senior Editor

srinebold@cbclegal.com

mcole@cbclegal.com

cc: Bob Bouchard

Jean Maess

### Reply to CBC Request - 12/13/1995

From martin@LII.law.Cornell.EDU Wed Dec 13 11:06:24 1995

Date: Wed, 13 Dec 1995 11:03:43 -0500 (EST)

From: "Peter W. Martin" <martin@LII.law.Cornell.EDU>

To: Sue Rinebold <srinebold@cbclegal.com>, Mick Cole <mcole@cbclegal.com>

Subject: Your recent letter

(Would you kindly copy those you cc'd on your letter to me, Bob Bouchard and Jean Maess, with this reply. I don't have their e-mail addresses.)

Dear Sue and Mick:

The continuing success of the work CBC has entitled "Social Security Plus" (It was called merely the "Work" in the original author/publisher agreement dated May 6, 1993.) is gratifying to me. I am also proud to know that in some respects this work has provided a pattern of integration for other CBC publications. Thus, while Thomson was slow in bringing the work to publication, which gave West some competitive room it shouldn't have had, we are, happily, working together on a project that now has strong forward momentum.

From time to time, we have had meetings that raised issues of scope and timetable, with passing mention of their implications for our underlying agreement. Unfortunately,

we seem not to have resolved some important ones, for they keep popping up, even some that I thought were settled. No doubt that is in part due to very some very different interests.

CBC has an array of other products that to some considerable extent overlap with this one -- in content and potential customer base. And any change in the scope of this work may implicate an even wider circle. As yet, this work is the only one I know of in CBC's Social Security, Elder Law, Medical Benefits territory to be offered in electronic format, but what about the future? Overlap can mean complement. It can also mean compete. Questions of the future of current print offerings like Social Security Disability Claims and Social Security Law and Practice must inevitably weigh on you and your colleagues. Those reference works, along with Advising the Elderly Client, contain some material that I could use, appropriate, reorganize, fit into the framework I've built. But each has its own heritage, scope, organization, customer base.

Much as I respect those separate works, I value the functionality and the authorial integrity of the existing work sufficiently that on nearly all future revisions or new features my approach will continue to be to learn from them and other competing works but design from the ground up. And except as powerful market incentives argue for adding additional substantive coverage to my work, my clear priority will be improvement of its treatment of its existing coverage. In short I want to be able to add features and depth (more graphical practice guides like those I added last spring and integrating the POMS as soon as it becomes available, having already devoted a lot of time building potential POMS links) rather than additional topics.

I would also like to work with CBC in providing a on-line update collection and building a disk update cycle that works off it.

This level of authorial control over the full collection and ongoing involvement in its maintenance and revision is at the core of what you tell me is referred to internally as "Martinizing". You did persuade me that it was critical to the Agency for my work to cover eligibility and benefit issues of SSI and I revised the work to cover them - and I will now not only maintain the expanded work but plan to go back and fill in some of the gaps in the case collection, complete with topic tags. In short, the new coverage is not an add-on but an integral part of the work.

There is one other fundamental difference in perspective. As an author I think of major additions to this work as large personal projects, larger than a print work of comparable scope would entail because of all the connections to a companion collection of primary material. You and your colleagues feel the press of the market place and quite naturally want to deliver an even better product in an environment where 3 months can seem

a long time.

When we met on September 6, my position on expanding the work to include Medicaid and Medicare was I thought clear. Because of the major revision of those programs underway in Congress (revision tending toward elimination in the case of Medicaid) I argued that the time was wrong to start creating a coherent element of my treatise or a companion work of similar and like scope covering the Medical Benefit programs. I indicated that when the dust had settled, I'd be interested in doing that probably working with my colleague Barry Strom whose writings on those subjects you can see at the LII web site. I suggested we see where things stood in the spring. You and Mick mentioned some other CBC products that already occupied the provider side of health care reimbursement issues, suggesting that any future free-standing Medicare - Medicaid product would implicate them. We left it, I thought, that short term to the extent that SSA needs required it, the work would be expanded to include the primary material covering the issues dealt with by their ALJs. Mick was going to check on what those were with a particular issue raised about Medicaid. (Perhaps, I miss something but I am aware of no SSA need even in the Office of Hearings and Appeals to resolve distinct Medicaid issues. My understanding is that all issues of Medicaid eligibility are handled under state plans, except to the extent that Medicaid eligibility piggybacks on SSI, which is now already covered.) I remain satisfied with that plan.

I see no reason to segregate the primary material. The relevant portions of the Act and CFR can simply be added to those infobases. The additional cases can be added with large category codes to the cases infobase. I'll revise the search tips material I created for that infobase and the query templates for all infobases to facilitate retrieval of and searches within the Medicare materials. Agency manuals can join those from SSA. I would want to retain the same level of authorial involvement with these new primary materials as with those already on the disk.

If CBC wants to create a separate Medicaid-Medicare reference or move its Advising the Elderly Client set to CD-ROM that is solely your business. I have ideas on the subject and interest in being involved (through the Cornell institute) but whether, when, and how are questions for you. But adding editorial material drawn directly from any CBC print product (no matter how excellent) to a common platform and bundled package with my work to meet asserted needs of its customers I view as within the author's zone. Nor can I see this as only a temporary expedient. Once on, particularly with a customer like the Social Security Administration, such additions will never come off.

I'd like whatever information you have gathered on the explicit needs of SSA -- whether reflected in provisions of your contract with the Agency or studies you've of the issues coming before Office of

Hearings and Appeals. If the agency truly needs editorial coverage of Medicare eligibility and benefit issues comparable to that I've already provided for OASDI, SSI, and attorneys fees, I'd like to work on the contractual details for my adding that coverage to Martin on Social Security. Those might include full or limited license to make use of the material currently published in the Medicare chapters of Advising the Elderly Client. They would not involve moving any CBC titles or chapters intact onto the same disk.

Please understand that I care deeply about the quality and long-term success of this creation of mine begun in 1988, first published by CBC in 1994 under a 1993 TEP agreement. Please also understand that while I value the contributions of many fine CBC folks to its quality and success, of necessity I have a longer-term view and different perspective. If our different interests call for some adjustment of the original agreement

I am open to that and would readily meet to explore options with whoever has authority to do so on CBC's behalf. (This is after all an agreement that CBC itself did not enter into, being unwilling in 1992-93 to take the project on.)

I welcome the opportunity your letter (and preceding phone call which opened the additional question of Social Security Law and Practice climbing onto the same disk) have given me to reflect on these matters of longer term relationship. Our principal business for the last year and a half has been getting the initial work right and creating a sustainable update process. I am confident we can turn to the business of resolving these issues posed by the future with equal success.

I can be reached at my NYU office between now and Dec. 22, from Dec. 28 through Jan. 3, from Jan. 8 through Jan. 18. You probably recall that I will be out of the country from Jan. 19 through Feb. 16. I should, however, be accessible by e-mail with only brief travel interruptions throughout the next two months.

Sincerely,

Peter W. Martin

## **Pre-Meeting Communication Raising Issues about New Relationship with West - 10/30/1996**

Sue et al:

I look forward to our meeting next week.

Please let me know what your agenda items are. The topics I'm eager to discuss cover a wide range from the highly technical (structure of the POMS infobase)



to some long-term ideas and questions.

Here is my list.

## I. Short Term

### -POMS -

- o Technical - relationship of structure of infobase to treatise link functionality (see below)

- o Integration with existing product - lockout, pricing, etc.

### -LawDesk Control Panel

### -Schedule for the coming year's quarterly revisions

## II. Intermediate Term

### -Online Updates (WWW and Westlaw, with Fax Option?) Replacing Print Pamphlets

### -Relationship to West's Social Security Products

### -Connected Questions About West/CBC Editorial and Marketing Integration

### -Plans for Pursuing Underexploited Markets - e.g., the Judiciary

### -Information Flow and Coordination Between CBC and Me

## III. Longer Term

### -Content Profile of SSPlus Vis a Vis Other CBC/West Offerings

### -SSPlus Lite (An Idea I'd Like to Sketch)

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## POMS Technical Questions

While in Rochester I'd like to spend some time with those who are structuring the POMS infobase. There are a few

elements of the specs that Don Zinter and I originally developed for the CFR infobase

(and the act and cases infobases) that I'd like carried over to this new one. One area

of particular concern bears directly on the functionality of links from the treatise. The POMS is in this respect closely analogous to the regulations. For many of the treatise sections the link needs to point to a range of sections rather than a single one. With the regulations (and the links to key cases and related treatise sections) this is achieved by a query link that pulls the appropriate range of section level records (the link delivers only the records with hits) WHICH ARE ALL SELF-LINKED so that a click on any section heading will deliver the user to that place in the infobase and a backtrack will return the user to the table of headings generated by the query link. Take section A 100 of the treatise for an example. The link to the regulations from A 100 operates as I've described above. The corresponding link to the POMS should function identically. At minimum that will require self-linking. It's structural issues like these (e.g., what names the levels should carry, presuming "Heading 3" etc to be working titles, whether the POMSREF field should be applied to the preceding level record, ...) that I'd like to explore with the responsible folks.

Illustrative FFF excerpts follow

#### CFR Structure

<RD:Section><GR:"404.611"><QL:Query,"[Group 404.611: ]"><JD:"404.611">§ 404.611  
Filing of application with Social Security Administration.<EL>

<RD:Subsection><GR:"404.611"><GR:"404.611(a)"><JD:"404.611(a)"><CS:Bold>(a) General  
rule. </CS><HR>

<CR>

You must apply for benefits on an applications we prescribe. See §  
<JL:Jump,"404.614">404.614<EL> for places where an application for benefits may be filed.

<RD:Subsection><GR:"404.611"><GR:"404.611(b)"><JD:"404.611(b)"><CS:Bold>(b) Effect  
of claims filed with the Railroad Retirement Board. </CS><HR>

<CR>

Pursuant to section 5(b) of the Railroad Retirement Act of 1974, as amended, 45 U.S.C. 231d(b), if you file an application with the Railroad Retirement Board on one of its forms for an annuity under section 2 of the Railroad Retirement Act of 1974, as amended, 45 U.S.C. 231a, unless you specify otherwise, this application also will be an application for any benefit to which you may be entitled under title II of the Social Security Act.

<RD:Subsection><GR:"404.611"><GR:"404.611(c)"><JD:"404.611(c)"><CS:Bold>(c) Effect of claims filed with the Veterans Administration. </CS><HR>

<CR>

An application filed with the Veterans Administration on one of its forms for survivors' dependency and indemnity compensation (see section 3005 of title 38, United States Code) is also considered an application for social security dependents' and survivors' benefits except the lump-sum death payment.

<RD><GR:"404.611"><GR:"404.611(c)"><PS:"FR ref">[51 FR 41950, 11/20/86; 58 FR 60381, 11/16/93]

Structure of Current POMS Infobase

<RD:"Heading 3"><GR:"gn00204001"><JD:"GN00204001">GN 00204.001 VALID APPLICATION

<RD><GR:"gn00204001"><CS:Highlight><FD:POMSRef><IX+>GN 00204.001<IX></FD:POMSRef></CS><CR>

<RD><GR:"gn00204001"><CR>

<CR>

<CR>

<RD:"Heading 4"><GR:"gn00204001"> POLICY

<RD><GR:"gn00204001">

<RD><GR:"gn00204001"><CR>

<CR>

<CR>

<RD:"Heading 5"><GR:"gn00204001">1. Requirements

## Update Memo - 3/10/1997

From martin@LII.law.Cornell.EDU Mon May 26 19:49:44 1997  
Date: Mon, 10 Mar 1997 08:33:57 -0500 (EST)  
From: "Peter W. Martin" <martin@LII.law.Cornell.EDU>  
To: David Stumme <dstumme@cbclegal.com>, Jonathan Bell  
<jobell@cbclegal.com>  
Cc: Sue Rinebold <srinebold@cbclegal.com>, Mick Cole <mcole@cbclegal.com>  
Subject: Revised scdtreat, scdothier, scdnew etc.

Jonathan & David:

I've put the revised infobases in the standard directory on our institute ftp server and also on my own machine. The Institute's server changed ip addresses over the weekend. The name server should still get to it with lii.law.cornell.edu, but if that fails 128.253.22.200 should get it for sure.

If, for some reason, that fails you should be able to pull it via ftp from my own machine -- 132.236.108.54

login as ssplus and use the same password as is contained on the CD.

Call me if you have any problems.

I have put the standard password on scdtreat.nfo and scdothier.nfo BUT I need to stress that I want no changes made in either without having it run by me. I was deeply upset over having to undo all the damage done to my practice guides by the "blue shift".

My notes on the various infobases follow. Again, call me if any of this is puzzling.

Peter

scdnew.nfo

The one you sent on the CD-ROM was based on Aug. 96 which was before everything turned blue. I conformed it to the new color scheme.

I also added levels and jump links to the two chunks of Federal Register material so that I could link to them and users could navigate via the table of contents.

sdcfr.nfo

There are two title boxes, one on top of the other, the first without, the second with a link to the menu infobase. (Same for scdact.nfo)

The new regulations in 402 do not have the jump links from section number and

heading to the beginning of the same line. (The link from #2 on the scdnew.nfo infobase will reveal the problem.) Ditto for the new regulations in 498. (Here too the link from #2 will reveal all.)

While the new regulations in 401 are "self-linked" only the section numbers and not the entire Section level are linked. I have no objection to that as a new format but it is not consistent with the rest of the cfr infobase or with the other infobases. Other new and anomalous sections are:

404.1038, 416.545, 416.546, 416.1247, 416.2206.

A quality control measure I use and recommend is to search an infobase using a given level as the query. In the case of scdcfr.nfo, a simple "[Level Section:]" query followed a scroll through the view limited to records with hits will reveal countless anomalies. Those noted above plus an extra, empty 404.967, and numbers of sections still carrying the old red color because they were not set up consistently (e.g., 404.1535-404.1541, 416.15).

scdact.nfo

The inspection technique described immediately above when applied to scdact.nfo reveals a failure to "self link" the subsections of 1320a-7d, 1320a-7e, and 1383f.

scdcases.nfo

And applied to scdcases.nfo reveals duplicates of two Supreme Court decisions, 429 U.S. 181 and 422 U.S. 749, plus a Supreme Court decision that has nothing to do with Social Security, predating the program by over 20 years:

Southern Pacific Terminal Co. v. Interstate Commerce Com., 219 U.S. 498 (1911).

scdrules.nfo

The addition of the three new rulings to scdrules.nfo needs to be cleaned up. They also need to have the topic groups I sent in my Feb. 13 e-mail included (repeated again below).

Moving up the stack toward the top, the problems begin following

SSR No. 96-8p (which seems ok).

The Ruling Number level of SSR No. 96-9p is erroneously grouped with ssr no. 96-10p. Its proper groups are instead associated with the Ruling Number level of the top ruling, AR No. 97-2(9). The Ruling Number level of SSR No. 96-9p should carry the following groups:

ssr no. 96-9p, all disability, p 660, p 900, p 920

The Ruling Number level of SSR No. 96-10p is groupless. It should carry: ssr no. 96-10p, all general, a 100, e 000

The Ruling Number level of AR No. 97-1(1) does have its ruling number group,

i.e. ar no. 97-1(1) but didn't get its topic tags. It should also carry: all family, m 100, m 300

The record directly above the Ruling Number level of AR No. 97-1(1) is a second Ruling Number level with no text. It should be removed. (It is readily located using the table of contents, for it is the empty line,

second down from the top.

Finally, as already noted the Ruling Number level of AR No. 97-2(9) is carrying the groups belonging to SSR No. 96-9p (which should be removed) as well as its own ar no. 97-2(9). Its proper topic groups should be added:

all disability, p 400, p 840

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### **Response to West Proposal of a Consolidated Disc – 11/10/1997**

Dear Ms. Courtade:

I have received your letter of November 5. I, too, seek a “fair and amicable” resolution of the tension between our current contract and West Group’s post merger plan for a single Social Security CD-ROM product, to be called Social Security Excellence. Since this will bring together two previously competing electronic publications, the scheme maps poorly against a contract that contemplated a single coherent work and measured royalties by its sales.

I am confident you intend \$200,000 to be a “fair” sum and not a “low ball” figure designed to launch a haggling process. But I need your help in understanding its fairness and attractiveness set against the principal alternative with which I must compare it – retrieving rights to the work for myself at first opportunity. I need your help because you have access to important numbers that I do not. I am particularly dependent in the light of the worthless royalty report I received covering the first half of 1997.

Under the current contract, through provisions on which I insisted because of prior experience with Mead Data Central, I have a right to terminate and secure the reversion of copyright in the full work to me. In the event of a material breach by West Group not cured within 30 days that return, following a one year “wind down” period, is unconditional. (I should note in this connection that I consider failures to pay full contractual royalties or to provide an accurate royalty report to be material breaches.) Without such a breach, I must wait until May 1999 to



terminate and in that event, following the one year “wind down” period, copyright reversion is conditioned on my paying \$100,000 or \$300 per subscriber whichever is the larger sum. That leads straight to what I need from you – subscription information. Obviously I am not asking what the figures will be in May 2000, but what are they in November 1997?

One way for me to gauge the fairness of the sum you are offering me to surrender all rights in the work is to compare that with what I would have to pay, barring breach, to secure their return following a termination at my election. I’m assuming you assembled subscription figures throughout the period of publication along with other relevant data in reaching the conclusion that you wanted to continue to publish the work and what it was worth. I’d like to receive that information in whatever detail you have it. I need it to be persuaded your offer is a fair one and that it represents a preferable resolution for me when compared with the termination rights I already have under the contract.

Assuming we proceed along the lines suggested by your letter, there are a host of details we must address. Some of them have to do with timing and transition, others with the implications of ending this relationship for my future authorial and electronic publishing activities.

I’m eager to work this through to conclusion as soon as possible and I trust you and your colleagues are as well. As soon as I’ve received the subscription information requested above, I’ll be ready to meet.

### **Update Memo – 11/23/1997**

Jonathan, Martin, et al -

I have just placed new versions of scdtreat.nfo and

scdnew.nfo at the LII ftp site (no changes in scdothet.nfo this quarter).

To assist you and your colleagues understand the steps involved in this portion of my update process let me note, briefly, what I have done (and regularly do):

- during the prior phase in which I code all rulings and cases I've selected for inclusion (with topic codes) I note which ones warrant inclusion in the treatise key cases links and/or call for specific mention in the treatise text -- all that has been done;
- during the quarter I keep update searches in place on the on-line services that flag new regulations or other agency issuances that may call for treatise revision or link changes -- during this quarter there were three new regulations plus SSA promulgation of the 1998 cost-of-living benefit changes and related annual adjustments -- the latter called for revision of all treatise sections where these parameters are described, the former for one treatise section change;
- in addition I check the other linked infobases to determine both that there have not been changes that affect linking and also whether there is new material -- this quarter that identified

new POMS material (and confirmed inclusion of CFR changes already identified in the prior step)

- I run a search on the on-line services to determine whether law journal or ALR commentary within the scope of the work has appeared and, if so, incorporate it in scdothier.nfo - none during this period

- I inspect the new primary material in the cases, rulings, cfr and when relevant other infobases to check on the consistency and accuracy of implementation of our specifications for levels, grouping, jump destination and other data format elements - done (see below)

- I prepare the scdnew.nfo describing and linking to the most significant new material in the full collection - done

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## QC POINTS

I. Data format problems continue in CFR (This is, I believe, the third consecutive quarter I have had to raise these or similar QC points about the CFR infobase.) --

New CFR sections (see, e.g., 20 CFR §§ 404.966 and 416.1466) do not conform to the data format we established for this work.

- All sections and subsections should have appropriately named jump destinations. These do not -- 404.966 has none at either the section or subsections, 404.1466 has a jump destination at the section and at 404.1466(a), but none at (b). 20 CFR §§ 416.580 - 416.586 have them at the sections but not for the subsections ((a), (b), etc.).

- All sections and subsections should be placed in cumulative groups. That is, 416.1603(b) is in both the 416.1603 group and 416.1603(b), as it should be. In the newly added material, the subsections are not put their in their own group (see, e.g., 20 CFR §§ 416.580 - 416.586 or 416.580 in particular). Combined with the jump link failure noted above this results in an inability to do precision linking to the subsections.

- Section headings should be self-linked via a query link to the groups that comprise the section (see, e.g., 416.571 which is query linked to [group 416.571:]). The links on the new sections link to the section number alone (no use of the group) which yields a different and unfortunate result.

## II. Ditto Rulings

The new ruling SSR No. 97-3 needs attention (as does 97-2p - still)

[for a format guide, work from the 96 rulings]

- The Ruling Number record for 97-3 is not in the same format as all the rest. It should read "SSR No. 97-3".
- It does not carry the topic codes I assigned it.
- The other records of that ruling have not been placed in the "ssr no. 97-3" group.
- Its Ruling Number record has not been properly self-linked to all records in the "ssr no. 97-3" group, limited to records with hits.
- 97-2p does not have all its records in the "ssr no. 97-2p" group -- significantly the "Purpose" record is omitted.
- 97-2p has the topic groups for that ruling applied to all its records, not simply its Ruling Number record like all the other rulings.

### III. Cases

Why are the U.S. District Courts denominated "Bankruptcy Appellate Panels"?

(See level "Court 2")? I presume it is a consequence of your also doing a bankruptcy disc, but it is an embarrassing slip-up.

Format glitch

- The new cases all seem to have a single leading space on the document level. This results in a saw-tooth display when any of my treatise query links pull up both new and old cases.

=====

peter martin

please confirm your receipt of the infobases (and this message).

### **Update Memo – 3/14/1998**

Jonathan, Martin et al -

I'm finished with the scdtreat.nfo, scdnew.nfo, and scdothet.nfo for the March disc.

Here are a few scattered observations about the other files on the disc dated 3/9/98 and marked 47:25:17.

As you know I am away from my office until March 23.

peter

- scdcfr.nfo would not open ["Unable to open infobase Social Security Regulations ... Unable to open a infobase with dead connections"] so I had to test CFR material with the 2/24/98 disc

- scdact.nfo -- here is where I spent nearly all my time (lots of it).

I have adjusted all links from the treatise to the act so that they work.

That was not a simple substitution because the assignment of jump destinations to locations in the act where a subsection and paragraph designation appear together (e.g., (a)(2)) or where a paragraph and sub-paragraph or whatever you call it appear together (e.g., (2)(A)) in this version do not follow the pattern of its predecessor. I have tested and where necessary changed the treatise links so that they work with the new JD designations.

The lack of self-links is a major problem, but you say you'll fix that and my query links to multiple locations in the act depend on that.

The formatting is still in need of a lot of work. I suggest assigning paragraph styles with a copy of the relevant portion of the USCA in print in hand. As it is the degree of indentation of text bears little relation to the structure of section, subsection, para, subpara and so on. Pick a large and complex section and simply scroll through it and you'll see what I'm talking about. Subsections and subunits at the same level of hierarchy under them are not assigned paragraph styles (indentation level) with consistency.

Sad to say this calls for editorial judgment. Look for example at the text immediately following 42 USCA 402(b)(1)(D)(ii)(II) beginning "in the first month." It has been assigned no para style which puts it out at the margin.

Since it completes (ii) it should have the same para style ("sub-paragraph"). As it is it creates a real puzzle for the user. The problem is compounded by treating all records assigned to the paragraph and subpara style to a level (or maybe the assignment occurred the other way round). That has the consequence of going beyond confusing visual display for it misrepresents the Act's structure in the TOC and reference window. Let me give an example. Consider a portion of the Act referred to as 42 USCA 402(b)(1)(A) (and properly assigned that JD). 402 is the section. (b) the subsection designation. (1) the next unit let us call it para. (A) is a subpart of (1) let us call it subpara. Go to that point in scdact.nfo and you'll find that (1) has not been assigned a para style or level and (A), (B), (C), (D) have been which suggest via the reference window that one is looking say at:

42 USCA 402(b)(A) or 42 USCA 402(b)(C). The case gets worse when one moves from 402(b)(1) to 402(b)(2) or (b)(3). Since neither of them get para treatment they are invisible in the reference window or TOC which therefore lead the user to believe 402(b)(3) is a subunit of 402(b)(K). Last example:

go to 42 USCA 402(b)(4)(B)(ii). Note that it appears in both TOC and reference window as 402(b)(ii)(II).

This is a serious problem. I stumbled on it initially because it prevents one or two of my links from working. For example, B 355's query link to the Act fails to grab 42 USCA 1382c(b) because it has not been properly assigned to the subsection level. But independent of the treatise it needs to be fixed.

I only encountered one JD assignment problem though I didn't do any sort of audit beyond checking my treatise links. One of them (A 850) looked for 42 USCA 1382(e)(1)(A). It does not have a JD. I have for the moment changed the link to 1382(e) so that it will work.

- scdrules.nfo -- the records comprising the most recent ruling (AR No. 97-4(9)) have been placed in the group named "97-4(9)" rather than "ar no. 97-4(9)" in conformance with all the rest. In addition the heading on the ruling number record for that and the immediate prior ruling (SSR No. 97-3) leave out "No." (have a look at the infobase TOC). IN RE AR No. 97-4(9) if you are able to put its records in a correctly named group, leave them also in 97-4(9) for this March disc because my links to the ruling use that group name.

- scdcases.nfo -- once again the new cases all have a leading space on the document level record with the older cases do not, causing both the TOC display and my query links to key cases to look jagged -- see, e.g., STIEBERGER V. APFEL 1997 WL 810794 (C.A.2 (N.Y.),1997.)

## **Update Memo – 6/13/1998**

Jonathan -

CFR (failure to include new regulations)

While I monitor changes to both the act and regulations, updating those infobases has not been my responsibility. I am therefore disturbed to note that changes to CFR during this last quarter have not been included. 63 FR 24927 added paragraphs to 404.985 and 416.1485 dealing with the prompt issuance of Acquiescence Rulings. 63 FR 4570 extended the effective date for the cardiovascular body system listings (see Appendix 1 to Subpart P) to February 10, 2000. 63 FR 30410 extended the effective date for several other body system listings.

Rulings - (3 problems)

(1) Ruling number level of the three new rulings, added per my June ask list, do not have the topic group tags furnished with the list.

(2) Furthermore, the records that comprise each of the rulings have not been grouped in a ruling group -- e.g., ssr no. 98-1p.

(3) The "self-link" query links from the Ruling number level record should be a query link to the records that comprise the ruling using the above grouping (see 2, above).

>> In addition, these query links should be limited to records with hits in the same way that the counterpart links for cases are. (This enables the user to isolate a ruling by clicking on its heading) which facilitates printing entire rulings. Nearly all the infobase is built this way, but the principal seems to have been dropped in late 1996. All rulings from 96-10p on need to have the query link set to records with hits.

New Cases -- (QC issues)

(1) Several cases on my ask list (1998 WL 202337, 1998 WL 217172, 1998 WL 175583, 1998 WL 105486 [138 F.3d 1150], ) do not have their topic group tags.

(2) Several short names are erroneous. E.g. - The fifth case (1998 WL 177980) has a short name that does not correspond to the long name -- i.e., Clarks rather than Clark. The sixth case (1998 WL 175583) has a short name of "Bryant, O." rather than Bryant v. Apfel.

(3) The last two cases on the Court of Appeals ask list are missing (134 F.2d 117 and 134 F.3d 49).

(4) I don't understand why there are so many 1997 Court of Appeals decisions still held in the "UNPUBLISHED LEXIS CASES" portion of the infobase. Presumptively all those with F.3d cites are published and available from WESTLAW. I have verified that as to the first six:

Sird v. Chater, 105 F.3d 401 (8th Cir. 1997)

Flynn v. Chater, 107 F.3d 617 (8th Cir. 1997)

Ingram v. Chater, 107 F.3d 598 (8th Cir. 1997)

Hall v. Chater, 109 F.3d 1255 (8th Cir. 1997)

Beauvoir v. Chater, 104 F.3d 1432 (2d Cir. 1997)

Stevenson v. Chater, 105 F.3d 1151 (7th Cir. 1997)

### **Update Memo - 8/30/1998**

Jonathan et al -

I regret to report that the disc you sent has a major flaw that has prevented me from making my changes to scdtreat.nfo and scdnew.nfo (see Cases, below).

Here is my QC report. As soon as I have a corrected and

complete cases infobase (it needn't be a full disc rebuild)

I should be able to provide a revised scdtreat.nfo and  
scdnew.nfo fairly quickly.

peter

Rulings -

I am puzzled why getting the Rulings right continues to be  
a problem. The two new ARs do have topic tags, the right ones -  
which is a step forward. However, their self-link from the  
Ruling Number level line is a jump link rather than the query  
link pulling together all the records of the ruling which  
is the standard format for this infobase (and cases).

Moreover, such a query link for AR 98-3(6) would have the  
problem of missing the Ruling Number level record itself  
because that record has not been placed in the AR 98-3(6)  
group. SSR 98-1p has this same problem with the Ruling  
Number level record not being in the SSR 98-1p group so the  
query link from the Ruling Number level record produces a  
puzzling result.

AR 98-3(6) and SSR 98-1p need to have their top level  
record added to their respective groups, and AR 98-3(6)  
and AR 98-4(6) need to have the self-reference link changed  
from a jump link to a query link, limited to records with hits.  
Finally, a look at the TOC will reveal a change in format  
of the Ruling Number level record that slipped in with  
SSR 97-3. Prior to that ruling all Ruling Number records

include "No." in the ruling identifier. But rather than being labeled "SSR No. 97-3" that and all subsequent rulings is merely "SSR 97-3". It should be easy to conform the seven anomalous rulings by adding "No."

## Cases

### Critical Omissions in Court of Appeals Decisions

Any time the number of decisions on the disc goes down there is presumptively a problem. In this case it reveals an omission so large I can't finish my work on the treatise.

Look at the TOC for the cases infobase. If you look at the Federal Cases/ United States Court of Appeals, you will see no decisions for the Eight Circuit (689 decisions on the June disc) and none as well for the Ninth Circuit (372 on the June disc). A swollen total for the Seventh Circuit suggests that some of the missing decisions are hiding there. As they are - Ninth Circuit decisions running up into the 1980s but not to present are lumped together with the Seventh.

When I describe this as a critical problem I mean it.

Four key new cases that warrant links from treatise sections and discussion in the What's New on This Disc infobase are Eight Circuit decisions. Since they are not on the disc I can't proceed.

## State Cases

Somehow two state cases with no connection to Social Security have slipped into the infobase. I see now that one of them



was on the June disc. Both should be removed.

Indeed, that category of cases should be removed. State courts have no jurisdiction over Social Security claims.

### **Update Memo – 9/5/1998**

"mr. Z" instead of "Mr. Z" and "inNovember" run together in example 2 of 20 CFR 416.420.

"fromthe" in 404.985(b)(1) and 416.1485(b)(1), "wwe" instead of we in 404.985(b)(2) and 416.1485(b)(2).

BRYANT, O - document level record for -

Bryant v. Apfel, 1998 WL 175583 (C.A.8 (Ark.),1998.)

[pointed out with last revision?]

### **Letter Broadcast to Likely Subscribers – 5/26/2000**

A Belated Explanation and an Invitation

#### **1. The Explanation**

Roughly a year ago, the updates to the CD-ROM marketed as "Social Security Plus" by Clark, Boardman, Callaghan and later West Group ceased. They ceased because West Group's rights to that work had come to an end.

Following the acquisition of the West Publishing Company by Thomson, the new entity sought to consolidate the two Social Security CD-ROM products as well as numerous print titles the merger brought under a single roof. However, West Group needed my agreement to do so and I refused. After a series of discussions, our differences led to a termination of the 1993 publication agreement, the winding up of West Group's right to distribute the product, and, on May 5, 2000 the return of all rights in the full work to me, the author.

When I suggested to West Group that we explain the circumstances of the termination and my future plans for the work they replied that they not I owned the subscription list and would communicate what they wished. Consequently, I am sending you this message uncertain whether or not you were one of the many subscribers to "Social Security Plus." If you were not and know someone who was feel free to pass the message on. Moreover, whether or not you or your firm paid the steep tariff for the work in that form, you may be interested in what it has become.

#### **2. My Invitation**

My intention in reclaiming the work was to preserve its integrity as a single coherent reference and to liberate it for Web distribution. (When I first prepared the work -- initially for LEXIS in 1990 and subsequently for the Clark, Boardman, Callaghan CD-ROM in 1993 -- the Internet was far from the virtual law library it has become.) Since the recent return of copyright, I have largely though not fully completed the process of adapting the work for the Web. I invite you to explore this collection's new incarnation as the LII's Social Security Library <<http://lii.law.cornell.edu/socsec/>>. Like the other resources available at the Legal Information Institute's site, Martin on Social Security and the companion library carry neither user fees nor commercial message.

Bringing this reference work to the Web has allowed me to integrate it with the numerous Social Security materials already there. It will also permit me to keep it more up-to-date than any commercial CD-ROM product can be, no matter how frequently it is updated.

Importantly, the Web and lack of commercial constraint also permit new flexibility. I would be delighted to hear any ideas you have about features, resources, or related services that would improve this latest version of my work.

Peter W. Martin

Jane M.G. Foster Professor of Law and

Co-Director Legal Information Institute

Cornell Law School